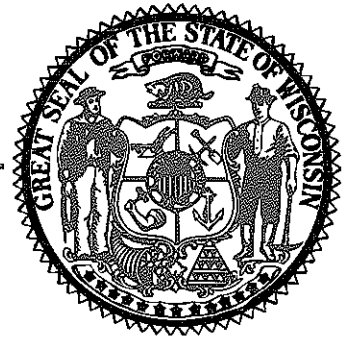


FRED A. RISSE

President

Wisconsin State Senate



**Testimony on Senate Bill 541
Senate Committee on Judiciary, Corrections, Insurance,
Campaign Finance Reform, and Housing
Wednesday, March 3, 2010**

Senator Taylor and members of the Committee:

Thank you for holding a hearing today on Senate Bill 541. I introduced this bill at the request of a number of Sheriffs' Departments from around the state to change the public notice posting requirement for the court-ordered sale of personal property and real estate.

Currently, a judge may order the personal property or real estate of a person be sold to satisfy a judgment against them. Wisconsin Law currently requires that notice of the sale be posted in three public places.

The problem that the Sheriffs brought to my attention is that in many townships around the state, the town hall is the only adequate posting site. Therefore, Sherriff's deputies are often forced to post things, such as foreclosure notices, on everything from street lights and telephone poles to fence posts and boat landings. These are sometimes located in secluded areas or far off the roadway where no one even sees them, and the notices are often torn down or blown off by bad weather.

The requirement to post in three public places is outdated and costly to taxpayers. It takes staff time and resources to go out and post all of these notices. And in the winter, it can be dangerous if deputies have to climb over snowbanks or down into culverts in order to access posting places. Now, with increasing access to the internet, it's time we start moving from paper to electronic format.

This bill would change current law to require that a notice be posted in one public place and on the county's website. This wouldn't prohibit a township from posting in multiple public places; it would simply remove the requirement to do so where it's unnecessary. In addition, requiring that notices be posted online will ensure that the information is actually available, as opposed to being blown off of power poles.

These changes will still provide the necessary information to citizens, while being more environmentally friendly, and saving time and resources.

This bill is supported by the Wisconsin County Police Association and by the Wisconsin Civil Process Group. Lieutenant Rick Olig of the Fond du Lac County Sheriff's Office is here to testify on behalf of those groups.

Thank you for your consideration of this important issue.

To: Members of the Senate Committee on Judiciary, Corrections, Insurance,
Campaign Finance Reform, and Housing

From: Rick Olig, on behalf of the Wisconsin County Police Association and the
Wisconsin Civil Process Group

Date: March 3, 2010

Re: Support of Senate Bill 541

Thank you Chairperson Taylor and members of the committee for providing me the opportunity to speak in support of Senate Bill 541. I would also like to thank Senator Risser for his work on this legislation.

My name is Rick Olig, I am a Lieutenant with the Fond du Lac County Sheriff's Office, I am also the Coordinator of the Wisconsin Civil Process Group, which is a statewide group of Sheriff's Office personnel involved in the service of papers and Sheriff's Sales. I am also the Treasurer for the Wisconsin County Police Association.

This may not be one of the most exciting pieces of legislation, however this legislation will assist Sheriff's statewide, with an ongoing problem and will save taxpayer dollars while providing a better service to our citizens.

One of the statutory duties of the Sheriff's Office is to "serve or execute all processes, writs, precepts and orders issued....". In addition to this, the Sheriff is required by Wisconsin State Statutes, Chapters 815 and 846, to hold Sheriff's Sales of Personal Property and Real Estate to satisfy judgments.

Under current law, the Sheriff is required to post each notice of sale in three public places within the town or municipality where the sale is being held and three public places within the town or municipality where the property being sold is located. These public places are city, village or town offices, libraries, businesses and many times, utility poles.

Because of policy changes we are no longer permitted to post these notices in many U.S. Post Offices, DNR property, small businesses and a majority of banks. With the current economy, many business places do not want to post notices because many of the defendants are their neighbors and customers.

Many municipalities do not have three public places to post these notices, therefore Sheriff's Deputies are walking thru snow covered or water filled ditches to post the notice on a utility pole. A utility pole located within the highway right of way is a public place and although it does meet the statutory requirement, we know that no one is going to be reading the notice.

This statutory requirement also places an unnecessary burden on Sheriff's. On Monday, the Dodge County Sheriff received 19 notices to post. This required the Sheriff's Deputy to post 57 notices in the City of Juneau and an additional 51 notices throughout Dodge County. Last year La Crosse County Sheriff posted 245 Sheriff's Sales requiring over 700 notices to be posted in the City of La Crosse and over 450 additional notices throughout La Crosse County. Dane County has 59 municipalities within the county, this means they need to maintain 177 public posting locations.

The primary intent of the statute is to give proper notice to the public of the sales being held. When the current law was enacted, I doubt that the internet was available to the average person. Today the internet is a primary tool in every school, library, government building and many households. Even the newspaper is becoming an electronic media versus the printed paper.

This bill would change the required number of postings from three to one in the town or municipality where the sale is held, and from three to one in the town or municipality where the property is located. Thereby providing a single posting location within each town or municipality. This would streamline the process as well as providing a consistent location within each municipality for posting. In addition, this bill provides for the posting of the notice of sale on the county website, if the county maintains a website.

This would make it much easier for the general public to view all upcoming sales by accessing the internet from their home, the public library, schools or most government buildings. The bill also permits each municipality to place the notice of sale on their website, if they choose to.

Last year Fond du Lac County received 285 initial Sheriff's Sale notices, however many of these sales were postponed or adjourned two or three times. Each time a sale is re-scheduled, the notice must be reposted. Now the initial 285 Sheriff Sales, requiring 855 postings in the City of Fond du Lac and over 500 throughout the county, becomes well over 1200 posting in the City of Fond du Lac and close to 1000 throughout the county. Each posting requires the Sheriff's Deputy to endorse and affix the notice in a "public place". The time and mileage expense incurred by the county grows each year as costs rise and Sheriff's Sales increase.

Yesterday, a Milwaukee Journal Sentinel article on foreclosures showed a thirteen percent increase in the number of foreclosures in southeast Wisconsin. Statewide there were 2543 foreclosure filings in February alone.

Foreclosures and the economic issues we are currently facing are a major concern. This bill cannot fix nor even address those issues. It can however, lessen the burden on counties and provide better service to our citizens through a uniform streamlined process for notification of sales.

Although they could not attend the hearing today, I received comments from a number of Sheriff's Offices throughout the State of Wisconsin that indicate potential cost-savings of over \$10,000 in some counties, should Senate Bill 541 become law. Other comments I received were "This bill would help us by eliminating the multiple postings.... Our sale numbers have tripled over the last three of four years." And "Approx. 40 posting locations are on power poles now. Not real good advertising-the way it was intended a century ago."

Again, thank you for the opportunity to provide testimony in support of Senate Bill 541.

I am happy to answer any questions.



PETER D. FOX
WNA Executive Director
Peter.Fox@WNAnews.com

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The Valders Journal

WNA Executive Director
PETER D. FOX

March 3, 2010

Senator Lena C. Taylor, Chair

Senate Committee on Judiciary, Corrections, Insurance,
Campaign Finance Reform and Housing

415 South, State Capitol

PO Box 7882

Madison, WI 53707-7882

Dear Senator Taylor and Members of the Committee:

On behalf of the members of the Wisconsin Newspaper Association (WNA), thank you for this opportunity to comment on 2009 Senate Bill 541 which would affect notice provided to the public in the course of a sale of personal property or real estate to satisfy a judgment. Particularly at a time when so many citizens are struggling to deal with financial hardship and hopefully regain some measure of economic stability, a shift of traditional public notice to the Internet is ill-advised.

We wish to stress that our association opposes this bill because of its implications for the entirety of Wisconsin's framework for notifying the public of government and legal issues that affect each and every citizen of our state. The paramount issue at hand is keeping government accountable to citizens and taxpayers.

The section of Wisconsin law SB 541 seeks to change is rooted in the public notice requirements required of town governments. As the honorable members of this committee understand, there are various requirements for public notice in the statutes that pertain to local governments including towns, villages, cities, counties and school districts, among other entities. Those requirements are based on the information to be shared publicly and the means available to the local government to do so. Many of these requirements are predicated on whether a newspaper is published in that particular municipality.

Generally, town governments are required to post public notice in at least three places in the town likely to give notice to the public. This particular requirement for posting a public notice *out among citizens* is because newspapers mainly have been published in an incorporated village or city rather than in the jurisdiction of a town government. Although some town officials might say that this posting requirement is a nuisance, for decades it has worked well for Wisconsin towns.

Senator Lena C. Taylor, Chair
Senate Committee on Judiciary, Corrections, Insurance,
Campaign Finance Reform and Housing
March 3, 2010
Page 2

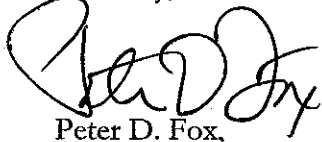
SB 541 originates from complaints of some sheriff's departments that posting the required three public notices is an undue requirement that results in littering, forces officers to post notices in secluded locations, and exposes those officers to adverse weather and navigation of snowbanks. We have been permitted to examine some of the communications from sheriff's departments to the bill sponsor. Trying to give benefit of the doubt, we still conclude that these complaints stretch common-sense reasoning. Towns have established posting sites that citizens are aware of and routinely consult as local residents. Separately, we should note that no where in this state – or in this nation – is a public notice requirement based on convenience to the governmental unit.

SB-541 also envisions a shift of public notices to local government Internet sites as an efficiency for government officers – yes, it likely would be an efficiency for those entities that have the infrastructure in place and the staff to maintain its site. Some people want you to believe that the future of everything is the Internet. Emphatically, that is not the case and particularly not when it comes to citizen interaction with their governments. The truth is that government operated Web sites don't push notices out to anyone. While accessible to everyone with a computer, they notify no one.

Another fundamental flaw of digital public notice is that those notices can be altered or deleted. If there is an error, a governmental unit can simply fix the notice to its liking, then it can swear on its own authority that the notice was always correct and was available for the proper amount of time for the public to find on its own. If the issue that SB 541 addresses truly is cost, then we urge Wisconsin citizens to ask for the municipal checkbook and review how it has spent every penny of public tax money. Our guess is citizens would find other expenses that could be cut before public notices – accountability notices – are eliminated from public venues.

We urge the committee to reject this proposal because of the unintended yet irreparable damage it would inflict on public notice structures in Wisconsin.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter D. Fox", written over a horizontal line.

Peter D. Fox,
Executive Director

cc: WNA Board of Directors